IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

S.B.CRIMINAL MISC. PETITION NO. 80/2006
(Mohan Ram & Ors. Vs. State of Rajasthan)

Date of Order : 11/10/2006

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. Sandeep Mehta for the petitioners.
Mr. Ashok Upadhyay, public prosecutor for the State.

BY THE COURT:-

This criminal misc. petition under Section 482 Cr.P.C. is directed against the order dated 29.10.2005 passed by Additional Sessions Judge, Parbatsar (for short 'the revisional court' hereinafter) whereby the revision petition filed by the petitioners against the order dated 7.12.2004 passed by Judicial Magistrate, Nava (for short 'the trial court' hereinafter) was dismissed.

I have heard learned counsel for the petitioner and public prosecutor for the State. Carefully gone through the orders passed by the trial court and the revisional court.

On a first information report No.13/01, the police investigated the matter and filed a negative final report. I have

carefully gone through the reasons given by the police in filing the negative final report. In my view, the reasons assigned by the police are absurd and totally unfounded and contrary to the record.

On a protest petition filed by the complainant, the trial court recorded the statements of witnesses under Section 200-202 Cr.P.C. and on the basis of the material placed before it, took the cognizance of the offence against the petitioners and issued process. That order came to be challenged by the petitioners before the revisional court. The revisional court dismissed the revision petition. Thus, both the courts below concurrently found prima-facie ground to proceed against the petitioners. Injured Rukma Devi said to have suffered seven injuries.

In Jagdish Ram Vs. State of Rajasthan, AIR 2004 SC 1734, Hon'ble Supreme Court held that at the stage of taking cognizance, the Magistrate has only to decide whether sufficient ground exists or not for further proceeding in the matter. It is well settled that notwithstanding the opinion of the police, a Magistrate is empowered to take cognizance if the material on record makes out a case for the said purpose. The Apex Court further held that investigation is the exclusive domain of the police. The taking of cognizance of the offence is an area exclusively within the domain of a Magistrate. At this stage, the

Magistrate has to be satisfied whether there is sufficient ground for proceeding and not whether there is sufficient ground for conviction. Whether the evidence is adequate for supporting the conviction, can be determined only at the trial and not at the stage of inquiry. At the stage of issuing the process to the accused, the Magistrate is not required to record reasons.

Keeping in view the decision of Hon'ble Supreme Court in Jagdish Ram Vs. State of Rajasthan (supra) and the fact that both the courts below concurrently came to the conclusion that there is ground to proceed against the present petitioners, it cannot be said that the orders impugned would result in serious miscarriage of justice or abuse of process of any Court warranting interference in the inherent jurisdiction.

The petition has no force and it is, therefore, dismissed. Interim order dated 20.1.2006 is vacated and stay petition also stands dismissed.

(H.R.PANWAR),J.

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